

30 SEPTEMBER 1946

I N D E X

of

WITNESSES

(none)

I N D E X

of

EXHIBITS

<u>Pros.</u>	<u>Def.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
<u>No.</u>	<u>No.</u>			
610		Photostatic Copy of the Chicago Tribune dated 25 November 1932	6698	
610-A		Excerpt from above newspaper of an article by John Powell entitled "China Charges Japs Kill 2,700 in Manchuria"	6698	
611		Photostatic Copy of the Chicago Tribune dated 3 December 1932	6698	
611-A		Article of explanation of the above given by the Japanese Consul in Chicago which appears in the 3 December 1932 edition of the Chicago Tribune	6698	
612		Excerpt from "Important Decisions Regarding International and National Policies - Aug & Nov 1938 "	6713	

I N D E X

Of

EXHIBITS

(cont'd)

<u>Pros.</u>	<u>Def.</u>	<u>Description</u>	<u>For</u>	<u>In</u>
<u>No.</u>	<u>No.</u>		<u>Ident.</u>	<u>Evidence</u>
613		Extract from Tokyo Gazette Vol III No. 10, April 1940, Page 396		6732
613-A		Excerpt therefrom		6732

1                   Monday, 30 September, 1946  
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INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Court House of the Tribunal  
War Ministry Building  
Tokyo, Japan

8                   The Tribunal met, pursuant to adjournment,  
9                   at 1013, the French interpreters, monitors and court  
10                  reporters having first been duly sworn.

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14                  Appearances:

15                  For the Tribunal, same as before.

16                  For the Prosecution Section, same as before.

17                  For the Defense Section, same as before.

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21                  (English to Japanese and Japanese  
22                  to English interpretation was made by the  
23                  Language Section, IMTFE.)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now in session  
3 and ready to hear any matter brought before it.

4 Mr. President, for the record, the French-  
5 English, Japanese-French court reporters and monitors  
6 have been sworn.

7 THE PRESIDENT: Mr. Comyns Carr.

8 MR. COMYNS CARR: Mr. President, it is my  
9 sorrowful duty to inform the Tribunal of the death  
10 of my colleague, Reginald Spencer Davies. It occurred  
11 on Wednesday last in an air disaster at Hongkong  
12 while he was on his way to Singapore on duty in con-  
13 nection with this case. He served through the war  
14 in the British Army and was demobilized to the rank  
15 of Lieutenant Colonel shortly before coming here with  
16 me on February last. He was my highly esteemed col-  
17 league, and in the closely knit international team of  
18 this prosecution, a colleague of all of us.

19 I feel that I am speaking for all nations  
20 represented here in saying that we shall find it very  
21 hard to make up for the loss of his abilities. They  
22 had been especially devoted to a branch of the case  
23 which is yet to come, although he had already appeared  
24 before you on one occasion.

25 Far more, however, we mourn him as a friend

1 and companion who had endeared himself to everyone  
2 in Tokyo with whom he came in contact.

3 Speaking for the English Bar, I deeply re-  
4 gret that so promising a career should have been  
5 broken off so early.

6 The Tribunal will also hear with regret  
7 that Colonel Wild, who recently appeared before you  
8 as a witness, was killed in the same accident on his  
9 way back to his duties in Singapore. As his evidence  
10 is still under your consideration, it would not be  
11 right for me to say today what I should like to say  
12 about his character and services; but we can, I am  
13 sure, all join in sorrow for his untimely loss.

14 I thank the Tribunal for allowing me to pay  
15 this last tribute.

16 THE PRESIDENT: Mr. Chief Prosecutor.

17 MR. KEENAN: Mr. President, ... members of  
18 the staff from the other nations would like permission  
19 to join with our friends from the United Kingdom in  
20 expressing our deep regret at the untimely death of  
21 Lieutenant Colonel Davies. Those of us who worked  
22 with him for the past seven months learned to admire  
23 and respect his sterling qualities. We, too, deeply  
24 feel his loss.

25 THE PRESIDENT: Mr. Logan.

1                   MR. LOGAN: Mr. President and Members of  
2         the Tribunal, may the record show that the Defense  
3         Section joins in expressing a sincere and profound  
4         sorrow at the tragic and untimely deaths of Reginald  
5         Davies and Colonel Cyril Wild. Although our associa-  
6         tion with Rex was not of long duration, those of us  
7         who knew him well had a fond affection and admiration  
8         for him. His appearance before this Tribunal and work  
9         as prosecuting attorney amply demonstrated his ability,  
10         character, and unswerving devotion to duty.

11                  To their families and intimate friends, there  
12         is little consolation we can offer except to remind  
13         them that He who tempers the wind to the shorn lamb  
14         looks down with infinite compassion upon the af-  
15         flicted in their hour of bereavement, and will fold  
16         the arms of His love and comfort about them.

17                  THE PRESIDENT: The Members of the Tribunal  
18         are sorry -- profoundly sorry to learn of the deaths  
19         of Mr. Davies and Colonel Wild. In a protracted  
20         trial of such magnitude in which so many take part,  
21         occasions like this can be expected; but the deaths  
22         of two such handsome, vigorous, intelligent, and  
23         public-spirited men in the prime of life came as a  
24         great shock to us all. From what has been said by  
25         Mr. Comyns Carr and Mr. Logan, we glean, as we might

1 expect, that the deceased gentlemen were most liked  
2 by those who knew them best; but, although no Member  
3 of the Tribunal had met either gentleman until he  
4 appeared in these proceedings, both were long enough  
5 before us to form some estimate of their qualities.  
6 Each was exemplary in his own particular sphere:  
7 Mr. Davies as counsel, and Colonel Wild as witness.  
8

9 Mr. Davies proved himself a most capable  
10 counsel in the handling of a witness. His death is  
11 a great loss to this Bar and to this Tribunal.

12 Colonel Wild's testimony is a matter upon  
13 which we have yet to pass judgment; but there was  
14 unanimity as to the manner of his giving it, and  
15 Mr. Blewett, who cross-examined him for the defense,  
16 generously but properly conceded that Colonel Wild  
17 was a truthful man.

18 Our sympathy goes out to the sorrowing  
19 widow of Colonel Wild, and to the bereaved relatives  
20 of both gentlemen.

21 Judge McKenzie.

22 MR. MCKENZIE: If the Tribunal please, you  
23 may recall that on Monday, August 5, 1946, when  
24 John B. Powell, a newspaper reporter, was testifying  
25 as to the story of a certain atrocity in Manchuria,  
the President of the Tribunal asked me to endeavor

1 to obtain the papers about which Mr. Powell had tes-  
2 tified. This is shown on page 3,225 of the record  
3 where the President said: "I think you ought to get  
4 the newspapers, Judge McKenzie. There must be some  
5 other copies besides those that the witness possessed  
6 and which were destroyed."

7 I am pleased to report that we were able  
8 to obtain copies of those two newspapers in the  
9 United States, and I now desire to offer the articles  
10 in question in evidence.

11 IPS document No. 2632 contains the article.  
12 written by and referred to by John Powell, which  
13 appears in the Friday, November 25, 1932 edition of  
14 the Chicago Daily Tribune. IPS document No. 2633  
15 contains the article of explanation given by the  
16 Japanese Consul in Chicago, which appears in the  
17 edition of the said paper for Saturday, December 3,  
18 1932. Inasmuch as these papers were requested by the  
19 Tribunal, and only the two articles referred to were  
20 to be introduced in evidence, they are the only por-  
21 tions of the newspapers which have been translated  
22 and processed and served on counsel for the accused.  
23

24 While I am offering those newspapers sepa-  
25 rately and have separate excerpts to be filed offi-  
cially with the Court, because of the shortage of

1 photostat paper the English copies which were served  
2 on accused counsel and are being furnished to the  
3 Court have both excerpts on the one sheet.

4 I now desire to offer and have marked for  
5 identification IPS document No. 2632, being the edi-  
6 tion of the Chicago Daily Tribune for November 25,  
7 1932; and to offer in evidence an excerpt from that  
8 paper, in both English and Japanese languages, of the  
9 article of John Powell entitled, "China Charges Japs  
10 Kill 2,700 in Manchuria," which is plainly outlined  
11 in blue in the original article -- document.

12 THE PRESIDENT: The newspaper will be marked  
13 for identification. The excerpt will be admitted as  
14 an exhibit on the usual terms.

15 CLERK OF THE COURT: Prosecution's document  
16 No. 2632 will be marked exhibit 610 for identification  
17 only; and the excerpt therefrom will be marked  
18 exhibit 610-A. Prosecution's document No. 2633 will  
19 be marked exhibit 611 for identification only; and  
20 the excerpt therefrom will be marked exhibit 611-A.

21 (Whereupon, the documents above-  
22 mentioned were respectively marked prosecu-  
23 tion's exhibits Nos. 610, 610-A, 611, and  
24 611-A, Nos. 610 and 611 being for identi-  
25 fication only, and Nos. 610-A and 611-A

1 being received in evidence.)

2 MR. MCKENZIE: Inasmuch as these articles  
3 have already been testified to, I shall not read  
4 them into the record at this time unless the Court  
5 desires.

6 THE PRESIDENT: They are really tendered  
7 as confirmation of Mr. Powell's evidence, and not  
8 intended to supplement it.

9 MR. MCKENZIE: That is right.

10 MR. FURNESS: If the Court please, the  
11 defense contends that they are inconsistent with  
12 the testimony and do not confirm it. That, of course,  
13 is a matter for the articles themselves and for the  
14 record; but in view of the Court's remarks, we felt  
15 that my statement should be made.

16 THE PRESIDENT (To the official court reporter):  
17 What did I say? Did I say "intended"?

18 OFFICIAL COURT REPORTER: "Not intended to  
19 supplement it."

20 THE PRESIDENT: I said the excerpt was  
21 intended as a confirmation, and not that it was. There  
22 is no need for your attitude.

23 MR. FURNESS: I regret it if my attitude was  
24 objectionable. It was not intended to be.

25 THE PRESIDENT: I am sure of that.

MR. KEENAN: The prosecution --

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1           THE PRESIDENT: I understand that the inter-  
2       pretation or translation will not be so rapidly made  
3       this morning; for about an hour there will be these  
4       delays. So we will be as patient as we can be, Mr.  
5       Chief Prosecutor.

6           MR. KEENAN: Mr. President, the prosecution  
7       now proceeds with the presentation of evidence on that  
8       phase which we have denominated as relations between  
9       Japan and the Republic of France. That will be presented  
10      by Mr. Robert Oneto, the Associate Prosecutor from the  
11      Republic of France and, for the purposes of language  
12      clarity, Mr. Oneto requests the Court's permission  
13      to address the Court in his native tongue, full pre-  
14      parations having been made for its translation into  
15      the English and Japanese languages in strict compli-  
16      ance with Article 9, subsection b of section III of  
17      the Charter.

18           THE PRESIDENT: Dr. KIYOSÉ.

19           DR. KIYOSÉ: With regard to Prosecutor Oneto's  
20      carrying on in the French language, we wish to raise  
21      an objection.

22           THE MONITOR: Slight addition to the original  
23      remarks in English: I hope that the Court will not  
24      permit him to speak in French.

25           DR. KIYOSÉ: As it is understood, it is clearly

1        stipulated in the Charter that the proceedings will be  
2        carried on in English and in the language of the  
3        accused. Therefore, should the proceedings be carried  
4        on in the French language it would, first of all, be  
5        in contravention of the Charter. Not only this. We,  
6        the Japanese counsels, would not be able to understand  
7        or tell whether the English and the Japanese trans-  
8        lations are correct.

9                  THE MONITOR: Correction: Not "we, the  
10        Japanese counsels" but just "we would not know."

11                  DR. KIYOSÉ: Therefore, should the proceed-  
12        ings be carried on in a language other than the Japanese  
13        or the English languages, there is a very great danger  
14        that both the accused and the counsel would not be able  
15        to -- there is a very great danger that both the  
16        accused and the counsels would suffer therefrom.

17                  On Saturday it was mentioned by the President  
18        that the use of a third language in this Tribunal would  
19        unduly prolong the proceedings of this Court. There-  
20        fore, we wish to request that, as stipulated in the  
21        Charter, no other language other than these stipulated  
22        in the Charter be used here.

23                  MR. KHENAN: Mr. President, the reason ad-  
24        vanced by the learned counsel for the accused on the  
25        translation difficulties would be a perfectly logical

1 reason, if it were valid, for dismissing this entire  
2 proceeding as annoyable and disagreeable and dismissing  
3 all the accused because obviously there will be the  
4 same difficulty in translating from English into  
5 Japanese and vice versa as there would be in trans-  
6 lating from the French Language. If the contention  
7 of the defense counsel were sound, for the strict  
8 interpretation of the Charter, we could have no other  
9 witnesses in the box but those who spoke English and  
10 Japanese and very possibly they would have to speak  
11 both languages at the same time. Of course, Mr. Pres-  
12 ident, the common sense of the Charter, it would seem  
13 quite apparent, is this: whatever testimony is  
14 offered and whatever is said must appear in the English  
15 and Japanese language in this courtroom, and when that  
16 is done the requirements of this Charter have been  
17 fully complied with. And, Mr. President, as for the  
18 commendable zeal expressed by defense counsel towards  
19 the acceleration of the termination of these proceed-  
20 ings, we beg leave to advise that we will cooperate  
21 entirely to the best of our power in that desirable  
22 result.

23 THE PRESIDENT: Dr. KIYOSÉ.  
24

25 DR. KIYOSÉ: I believe what I said has been  
misunderstood. Therefore, I wish to make an explanation.

1           THE PRESIDENT: You cannot be heard twice on  
2 the objection, Dr. KIYOSÉ. Read what I said, will  
3 you, Mr. Reporter.

4                             (Whereupon, the President's statement  
5 was read by the official court reporter as above  
6 recorded.)

7           DR. KIYOSÉ: I think what I said has been mis-  
8 understood. Therefore I wish to make an explanation.

9           THE PRESIDENT: Well, don't add to what you  
10 said before. You might elucidate it, if it needs  
11 that.

12           DR. KIYOSÉ: I do not wish to raise any objec-  
13 tion as to the witness giving his testimony in a  
14 language other than those stipulated in the Charter.  
15 I only wish to object to the fact that a third language  
16 is now being used by the prosecution in the Court  
17 proceedings.

18           THE PRESIDENT: Mr. Levin, you should have  
19 spoken before the Chief Prosecutor if you are going to  
20 make an objection.

21           MR. LEVIN: I am sorry.

22           THE PRESIDENT: I did not on Friday make use  
23 of the words attributed to me by Dr. KIYOSÉ. What I  
24 said appears in the record.

25                             The Court will hear Mr. Oneto in French, but

1 he must supply the Court with a copy in English of what  
2 he is saying. So far we have only a copy in French.

3 MR. FURNESS: May the defense counsel also  
4 request copies in English while it is being delivered?

5 THE PRESIDENT: They should be given copies.

6 DR. KIYOSÉ: If that is the case, Japanese  
7 copies are also desired.

8 THE PRESIDENT: Have you copies for the  
9 defense, Mr. Oneto? I haven't seen any copies dis-  
10 tributed among the defense.

11 MR. ONETO: Copies in English and in Japanese  
12 will be distributed to the Court and to the defense.

13 THE PRESIDENT: Mr. Logan says the defense  
14 have not copies in English of your address or opening.

15 MR. ONETO: Mr. President, we have sent for  
16 copies both in English and Japanese. We have not  
17 received them and if the Court agrees we would like  
18 a recess for ten minutes.

19 THE PRESIDENT: We will recess for fifteen  
20 minutes.

21 (Whereupon, at 1055, a recess was taken  
22 until 1105, after which the proceedings were  
23 resumed as follows:)

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: For the time being, French  
4 will not be translated over the IBM. A majority of  
5 the Court saw fit to allow Mr. Oneto to speak in  
6 French, but that is giving difficulty to those trans-  
7 mitting French over the IBM. The majority of the Court  
8 think that this is a concession to Mr. Oneto and the  
9 French prosecutors which is not prohibited by the  
10 Charter; but it is a concession, and is granted on the  
11 Court's terms.

12 MR. KEENAN: Mr. President, with great respect  
13 to this Tribunal, as chief of counsel I am calling its  
14 attention to the fact that the IBM machine has been used  
15 to transmit translations in the Russian language for a  
16 considerable time and, I take it, with the full knowledge  
17 and consent of this Tribunal. If not, I would like to  
18 have the record so show.

19 THE PRESIDENT: All I know is what I have been  
20 told by the Language Section. There is no prejudice  
21 in favor of Russian as against French. For the time  
22 being it is purely a mechanical problem, which I am un-  
23 able to overcome.

24 MR. KEENAN: Mr. President, the prosecution  
25 feels compelled to remind the Court that in the opening

1 statement to be delivered, a translation in the French,  
2 from the French to the English and Japanese, has been  
3 already supplied to those in charge of the IBM ma-  
4 chine, and it is not informed of any mechanical dif-  
5 ficulties that will permit the same procedure in that  
6 regard as has been followed for several months in the  
7 use of the IBM machines, which was by direction of the  
8 court secretariat, and I, therefore, took it for granted  
9 by direction of the Court.

10 THE PRESIDENT: The Court has no means of  
11 anticipating any mechanical difficulties. We are not  
12 engineers; at least, I am not.

13 If I do not take action to meet a new situation  
14 I am told I am not diligent; if I do, I am told I am  
15 over zealous.

16 MR. KEENAN: Mr. President, with great respect,  
17 the occurrence of mechanical difficulties has been  
18 met by this Court on previous occasions by adjournment  
19 until they are adjusted; and regardless of the inten-  
20 tion of this honorable Tribunal, which of course I  
21 would understand in any event, this action, with great  
22 respect, can be received in no other manner than that  
23 of an affair of discrimination.

24 THE PRESIDENT: One Member of this Court can  
25 answer you, and that is the French Judge. He does not

1 statement to be delivered, a translation in the French,  
2 from the French to the English and Japanese, has been  
3 already supplied to those in charge of the IBM ma-  
4 chine, and it is not informed of any mechanical dif-  
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17 respect, the occurrence of mechanical difficulties  
18 has been met by this Court on previous occasions by  
19 adjournment until they are adjusted; and regardless  
20 of the intention of this honorable Tribunal, which,  
21 of course, I would understand in any event, this  
22 action, with great respect, can be received in no  
23 other than that of an affair of discrimination.

24 THE PRESIDENT: One member of this Court can  
25 answer you, and that is the French Judge. He does not

1 take that view.

2 MR. KEENAN: Well, the prosecution wishes to  
3 make its position clear, and the chief of prosecution,  
4 that he objects to this French translation not going  
5 over the IBM proceedings, and he sees no reason for  
6 its omission.

7 THE PRESIDENT: I understand now that your  
8 address, Mr. Oneto, will go over the IBM. But I can  
9 give no guarantee beyond that. I understand it will go  
10 over concurrently.

11 Proceed.

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1                   MR. ONETO: Mr. President and Members of  
2                   the Tribunal:

3                   We shall now present that phase of the case  
4                   dealing with Japan's act of aggression against France  
5                   and French Indo-China and show how Japan planned, pre-  
6                   pared, initiated and waged a war of aggression and a  
7                   war in violation of international law, treaties,  
8                   agreements and assurances. This evidence will relate  
9                   to Counts 1 to 5, and even more particularly to  
10                  Counts 15, 23, and 33 of the Indictment.

11                  It will be proved that Japan deliberately  
12                  included French Indo-China in the territories which  
13                  she wished to conquer, in order to realize a triple  
14                  aim: to accelerate the conclusion of her military  
15                  operations against China; to direct her policy of  
16                  expansion towards Southwest Asia; to seize the riches  
17                  of Indo-China, especially rubber and rice.

18                  We will demonstrate that Japan decided to  
19                  carry out this program by the use of force and that  
20                  by 1939 the policy of war with France had been estab-  
21                  lished.

22                  We will set forth the circumstances and  
23                  means by which Japan put these designs into execution  
24                  by taking advantage of the military reverses in France  
25                  and the weakness and isolation of Indo-China and the

1 manner in which this policy of oppression was put  
2 into effect with the close cooperation of Germany,  
3 thus giving practical expression to the Tri-Partite  
4 Pact which had just been concluded.

5 PREPARATORY PERIOD

6 French Indo-China occupies a strategic  
7 position of the highest importance in Southern Asia.  
8 Her northern frontier skirts the southern frontier  
9 of China and joins that country with Siam and Burma,  
10 thus establishing a line of communication with Peiping,  
11 Hankow, Canton, Hanoi and Bangkok.

12 On the other hand, French Indo-China is the  
13 focal point of territories in which Japan was equally  
14 interested. These were Hong Kong, Malaya, Singapore,  
15 the Dutch Indies and the Philippines. French Indo-  
16 China, therefore, constituted a naval and aerial base  
17 highly advantageous to the future expansion of Japan  
18 towards these territories, especially for sudden  
19 military attack. Lastly, Indo-China being rich in  
20 the production of rice, rubber, and other raw materials  
21 was of vital assistance to Japanese economy in her  
22 preparation for war.

23 If these facts are assembled and considered  
24 as a whole, it is clear that the territory of French  
25 Indo-China was of great importance to Japan in her

1 plan of action and this importance increased as the  
2 Japanese Army advanced into Southern China where  
3 fresh difficulties were encountered each day.

4 The ever-growing clouds of war in Europe  
5 diverted the attention of the Western Powers and,  
6 seizing her opportunity Japan advanced step by step  
7 in the direction of French Indo-China.

8 On the 10th February 1939, the Island of  
9 Hainan was taken by a surprise attack and occupied.  
10 In reply to the protest raised by the French Ambas-  
11 sador, the Japanese Foreign Minister, HIROTA, stated:  
12 "The occupation is one dictated by military necessity  
13 both in its nature and duration and Japan has no  
14 territorial designs on the island." The occupation  
15 of that island, in the close vicinity of the coast  
16 of Tongking, constituted a permanent menace to the  
17 security of North Indo-China.

18 On March 31, 1939 the Spratley Islands, a  
19 French possession off the eastern coast of French  
20 Indo-China, were occupied by Japanese troops. An  
21 official communique of the Japanese Foreign Ministry  
22 explained this action in the following way: "The  
23 desire of the Japanese Government is to avoid any  
24 quarrel with France."

25 The success of these operations convinced

1 the Japanese Government that the use of force was  
2 efficacious and they decided that, in the future,  
3 this should be the means by which they would assure  
4 the hegemony of Japan in the Far East.

5 On the 5th June 1939, OTT, German Ambassador  
6 to Japan, notified his Foreign Ministry in Berlin  
7 that the Japanese "are agreed to participate in a  
8 war against England and France, but with certain  
9 reservations by which Japan wishes to assure herself  
10 of the decision of the favorable moment for entry  
11 into war." This favorable moment was soon to appear.

12 AGGRESSION AGAINST AND OCCUPATION OF NORTH FRENCH

13 INDO-CHINA

14 Since 1937 Japan reproached France with  
15 allowing the traffic of war material destined for the  
16 Chinese Army of Marshal Chiang Kai-shek to pass  
17 through the territory of Tongking. Having blockaded  
18 the Chinese coast, the Japanese Government intended  
19 to isolate western and southern China from neighboring  
20 countries whose lines of communication could still  
21 send help to the Chinese Army. This was particularly  
22 true of French Indo-China where the Haiphong-Lungchow  
23 and Haiphong-Kunming Railways provided excellent means  
24 of reaching the provinces of Yunnan and Kwangsi.

25 The protests of the Japanese Government

about this state of affairs became stronger in 1939  
and were repeated in 1940. Over this matter, however,  
France acted in conformity with the resolution of  
October 6, 1937 adopted by the Assembly of the  
League of Nations, which "expresses its moral support  
for China and recommends that members of the League  
should refrain from taking any action which might  
have the effect of weakening China's power of re-  
sistance and thus increasing her difficulties in the  
present conflict, and should also consider how far  
they can individually extend aid to China."

Between August 1939 and February 1940, the  
Japanese bombed the Yunnan Railway in North Indo-  
China, killing and wounding many people, while  
simultaneously a violent campaign of threats was  
launched in the press and on the radio.

The military reverses in France in June  
1940 brought Japan her "golden opportunity" and on  
June 19, 1940 Japan requested Germany to give her a  
free hand in Indo-China and thus disclosed her true  
intentions towards this country. On the same day,  
through the medium of the French Ambassador in Tokyo,  
Japan demanded that the Indo-China frontier be closed  
in order to prevent the transportation of gasoline by  
road and of certain other materials by rail; also that

1 Japan be permitted to place Imperial officers along  
2 the frontier to ensure that it remained closed. The  
3 acceptance of these demands was requested for the  
4 evening of the next day, June 20, 1940.

5 This was the first ultimatum that Japan  
6 delivered to Indo-China. At that time, Indo-China  
7 had only a small armed force at her disposal and  
8 owing to events in Europe it was impossible for her  
9 to obtain support from the other democratic powers  
10 who were anxious to avoid a conflict in the Far East.  
11 For these reasons, General Catroux, then Governor-  
12 General of Indo-China, was compelled to comply with  
13 the Japanese demands which were as follows:

14 1. The sending to Indo-China of a Japanese  
15 Commission which would supervise all the operations  
16 of rail, river and air traffic into China.

17 2. Total closing of the frontier between  
18 French Indo-China and China, both ways. This provision,  
19 applicable to merchandise of all kinds, was temporary.

20 The Japanese Mission, under General NISHI-  
21 HARA, arrived in Hanoi on 29 June and immediately set  
22 up control centres in Haiphong, Ha Giang, Lao-Kay,  
23 Cao-Bang, Lang-Son and Fort Bayart.

24 On August 2, 1940 MATSUOKA, then Minister  
25 of Foreign Affairs in the KONOYE Cabinet, transmitted

1 an ultimatum to the French Ambassador in Tokyo as  
2 follows: "The Japanese General Headquarters considers  
3 as vital necessity the pursuit through French Indo-  
4 China of the hostilities against China. Consequently,  
5 the Republic of France is hereby requested to give  
6 assistance to the Japanese armed forces by agreeing  
7 to their passage through the province of Tong-King;  
8 the use of airfields in that province; the stationing  
9 of the necessary garrison of troops and also the  
10 provision of facilities for the transportation of  
11 arms and ammunition."

12 The ultimatum pointed out that if no  
13 immediate answer was received, the Japanese Government  
14 would feel compelled to order their army to obtain  
15 right of way by the use of force.

16 The support which would enable French  
17 Indo-China to resist Japan's unjustified demands  
18 could not be obtained from any of the other Powers  
19 which were France's Allies, and owing to the military  
20 debacle in Europe it was equally impossible for  
21 France herself to send any assistance.

22 On August 30th an agreement was reached  
23 between MATSUOKA and the French Ambassador, Charles  
24 Arsene Henry, on the following terms: Japan would  
25 obtain, temporarily, exceptional military facilities

1 in Tong-King, the terms of which were to be settled  
2 at a later date by joint agreement of the French and  
3 Japanese military authorities. In this agreement,  
4 concluded on September 4, 1940 the Japanese Government  
5 gave its assurance that it would respect the rights  
6 and interests of France in the Far East and especially  
7 the territorial integrity of Indo-China and the  
8 sovereign rights of France in all parts of the Union  
9 of Indo-China.

10 The events which followed showed in true  
11 measure the flagrant way in which the Japanese leaders  
12 violated their obligations as soon as the Agreement  
13 was signed.

14 The military agreement was to become effective  
15 only after the approval of the governments concerned,  
16 which might necessitate a certain delay. The Japanese  
17 Government, anxious because New Caledonia and New  
18 Hebrides successively joined General De Gaulle, wanted  
19 to settle, without delay, the terms permitting the  
20 passage of their troops through Indo-China. Following  
21 fresh demands, an ultimatum was presented on September  
22 19th to the Governor-General of French Indo-China by  
23 General NISHIHARA. In the course of a visit made to  
24 him on September 20, 1940 by the Ambassador of the  
25 United States, MATSUOKA was obliged to acknowledge

1       the fact.

2              During all these negotiations, MATSUOKA  
3       on numerous occasions requested the German Government  
4       to support the Japanese demands by bringing pressure  
5       to bear on the Vichy Government. At the same time,  
6       perfect synchronization was established between this  
7       diplomatic pressure and the military duress exercised  
8       on French Indo-China.

9              The Japanese forces manifested their im-  
10      patience and on September 6, 1940 a Japanese batallion  
11      crossed the border, while on the night of September  
12      20, 1940 more Japanese forces penetrated into the  
13      region of Dong Dang. At the same time, the claims  
14      of Siam and the disturbances caused by her along the  
15      border of Laos caused the French troops to disperse.  
16      After having in vain launched a fresh appeal to the  
17      Government of the United States, Indo-China was com-  
18      pelled to yield to force on September 22, 1940 and  
19      agree to the Japanese terms.

20             On the same day, September 22, the Japanese  
21      Army started the attack on the Tongking border. This  
22      constituted the first act of military aggression com-  
23      mitted by Japan against French Indo-China. One  
24      division, including armour after storming the isolated  
25      outposts of Dong Dang, Pho Binh-Gea and Than-Moi,

1 besieged the citadel of Lang-Son, which can aptly be  
2 described as the bolt of the border of French Indo-  
3 China.

4 On September 26 the Japanese forces bombed  
5 the harbor of Haiphong. The French forces, deprived  
6 of all help, were overcome a few days later after  
7 stubborn resistance. Japan's aims were reached.  
8 Despite that resistance and those losses, Japanese  
9 propaganda spoke of "friendly and peaceful penetration  
10 into Indo-China," and termed the battle of Tongking a  
11 "local skirmish due to a misunderstanding."

12 The Japanese military aggression had been  
13 successful by taking the frontier of Tongking by  
14 surprise; by attacking Lang-Son, the bolt of this  
15 frontier, they had rendered impossible further  
16 resistance in Indo-China.

17 Lacking personnel and war material; forced  
18 to divide its troops to meet the double threat of  
19 Japan and Siam; deprived, in spite of numerous appeals,  
20 of all external aid, French Indo-China was compelled  
21 to give way to force.

22 France was thus the first of the Western  
23 nations to fall a victim to Japanese aggression.

24 The acts of violence which, at a later period,  
25 were to be repeatedly carried out by Japan, were the  
consequence of this oppression.

1                   THE SIAMESE AGGRESSION.

2                   Informed of the weakness of Indo-China's  
3                   power of resistance, encouraged and supported both  
4                   diplomatically and materially by Japan, Siam considered  
5                   the time favorable to put forward her claims against  
6                   Indo-China.

7                   On June 12, 1940 Siam signed a Treaty of Non-  
8                   Aggression with France, but refused to ratify it as  
9                   soon as the armistice in France was known, and at the  
10                  same time started a campaign of claims on certain  
11                  territories in Cambodia, Siam Reap, Battambang, etc. and  
12                  also on a part of Laos.

13                  In July 1940, the Siamese Army was concentrated  
14                  on the frontier of Cambodia and on August 19 Marshal  
15                  Pibul Songgram, Minister of Foreign Affairs, disclosed  
16                  the territorial claims of Siam. On September 28, the  
17                  Siamese planes bombed French troops in Cambodia and  
18                  land, naval and aerial hostilities continued until  
19                  January 1941.

20                  Without even attempting to conceal the help  
21                  given to Siam, Japan signed a Treaty of Friendship with  
22                  her in December 1940 and transferred 38 fighter planes  
23                  and 25 bombers to her. Japan then intervened to impose  
24                  her mediation and the conclusion of an armistice.

1 Japan had, from the beginning of the French-  
2 Siamese hostilities, taken advantage of the circumstances  
3 to land important contingents of troops in Hanoi and  
4 Haiphong in January 1941, and these units were further  
5 strengthened during the truce between France and Siam.  
6 It was, in fact, under constant coercion that the French  
7 delegation had to negotiate in Tokyo and this coercion  
8 was particularly exercised through the presence of  
9 Japanese warships in the Gulf of Siam.

10 In a report to the Throne, General USHIROKU,  
11 Supreme Commander in South China, explained the preparation  
12 for operations in connection with the Japanese mediation:  
13 "On February 4, in conformity with the General Headquarters'  
14 indications, we have given careful consideration to the  
15 case that we may be obliged to exercise our armed force  
16 against French Indo-China in accordance with the future  
17 change in the relations between Japan and French Indo-  
18 China. One district army (Japanese garrison in Tongking,  
19 Indo-China) had collected information, established plans  
20 of operation and completed the liaison with the Navy  
21 in order to leave nothing to be desired in the preparation  
22 of operations, imposing a silent influence, thus contrib-  
23 uted to the Japanese mediation."

24 A record of the session of the Privy Council  
25 of July 3, 1941 is also significant. In the course of

1 that sitting, Councillor ISHII manifested his joy over  
2 the Japanese mediation, which he termed a "diplomatic  
3 victory." Councillor FUKAI, although he agreed, made,  
4 however, the following reservations which laid stress  
5 on the pressure to which France was submitted; he stated  
6 that he also shared the opinion of ISHII but "to look  
7 upon ourselves as the stabilizers of East Asia may mean  
8 nothing but to be taken by a third country as a symbol  
9 of an aggressive policy."

10 Negotiations having failed, MATSUOKA summoned  
11 the French and Siamese delegations on February 24 and  
12 handed them a new plan of mediation, stating that this  
13 was the final plan and that there could be no further  
14 discussion on the matter.

15 An answer was expected on February 28 at the  
16 latest. That plan was rejected by the French represent-  
17 atives. MATSUOKA threatened to reconsider his whole  
18 policy on Indo-China and to denounce the agreement of  
19 August 30, 1940.

20 On March 11, 1941 the French Embassy accepted  
21 the solution imposed by Japan. The terms of the letter  
22 of acceptance showed in their true light the methods by  
23 which the French agreement was obtained to a plan pro-  
24 posed by the Imperial Government to unconditional acceptance  
25 by the French Government.

1           The French Government is ready in the present  
2 circumstances to comply with the Japanese insistence  
3 even though neither the local situation nor the fortune  
4 of arms compel it to abandon the benefit of the treaties  
5 freely negotiated and concluded with the Siamese  
6 government.

7           The solution of the conflict imposed by Japan  
8 represented a cession of territory of some 69,000  
9 square kilometers and 334,000 inhabitants, while claims  
10 formulated by Siam, previous to February 7, did not  
11 exceed a territory of 23,000 square kilometers and  
12 64,000 inhabitants. Moreover, Japan imposed the  
13 establishment, under Japanese supervision, of de-  
14 militarized zones.

15           On May 9, 1941 an agreement was signed in  
16 Tokyo but, in payment for its good offices, Japan  
17 imposed a protocol of political guarantee and under-  
18 standing. "Japan guarantees the final and irrevocable  
19 character of the French Siamese settlement. France binds  
20 herself to conclude no agreement, concerning Indo-China,  
21 with a third power which might imply political, economic  
22 and military collaboration involving direct or indirect  
23 opposition to Japanese interests."

24           THE PRESIDENT: This is a convenient break.  
25 We will adjourn now until half past one.

(Whereupon, at 1200 a recess was taken)

**AFTERNOON SESSION**

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Oneto.

MR. ONETO (Reading):

**TOTAL SEIZURE OF INDO-CHINA**

The occupation of north Indo-China had enabled Japan to bring an end to the substantial help given by French Indo-China to the armies of Marshal Chiang Kai-shek.

The plan to establish the Greater East Asia Sphere included British and Dutch territories and to realize this plan, the total occupation of Indo-China was essential.

The conquest of the southern part of Indo-China was necessary for the next stage in Japan's military operations, but the anti-Japanese sentiment which existed there, coupled with the sympathy for General De Gaulle's Government, caused Japan considerable anxiety. This anxiety was alleviated when she occupied the country.

The decision to acquire military positions and to advance into southern Indo-China, even against

1 the opposition of the French authorities, was expressed  
2 on July 14th, 1941 to the Vichy Government through  
3 the medium of the Japanese Ambassador.

4           The Japanese Foreign Minister gave detailed  
5 instructions to the effect that the Japanese troops  
6 would advance on July 20th, 1941 and said: "If the  
7 French accept by then it will be a peaceful advance-  
8 ment; if not, an armed advance". In effect, on July  
9 20th, the Vichy Government was informed that, what-  
10 ever the decision of the French authorities, the Jap-  
11 anese Government was determined to carry out its  
12 plans.

13           The French answer was expected in Tokyo  
14 on July 22nd at 6 o'clock but the Japanese Govern-  
15 ment stated that their troops would cross into Indo-  
16 China regardless of the contents of the French answer.

17           This was the ultimatum with which Indo-  
18 China was confronted at a time when she stood alone  
19 and was unable to rely on any help from the outside.

20           The Vichy Government, under the duress of  
21 Germany and pressure from Japan, complied with these  
22 demands.

23           Japan obtained the right to send into Indo-  
24 China the troops, as well as the naval and air units,  
25 which she considered necessary. Thus, the plan for

1 the complete occupation of Indo-China by the Japanese  
2 was realized and Japan obtained the necessary  
3 springboard for a rapid attack against Singapore  
4 and the Dutch East Indies.

5 On July 28th, 40,000 Japanese landed in the  
6 south of Indo-China but, as early as the end of Sept-  
7 ember, Tokyo announced its intention of sending  
8 50,000 men into Tongking by October 5th, 1941. The  
9 negotiations then in progress between Japan and the  
10 United States temporarily halted this plan. On  
11 December 8th (Japanese time), 1941, the precise day  
12 of the attack against Pearl Harbor, and immediately  
13 after the French National Committee of General De  
14 Gaulle declared a state of war against Japan, the  
15 latter nation imposed a new military agreement upon  
16 Indo-China which completed the Japanese control over  
17 the occupied territories by her military, naval and  
18 air forces. The same agreement ensured Japanese con-  
19 trol over all means of communication, broadcasting  
20 systems and information services. Japan was, from  
21 that moment onwards, the master of Indo-China.

22 AGGRESSION AND ECONOMIC PLUNDER

23 The occupation of the north and later of  
24 the whole of Indo-China was to allow Japan to real-  
25 ize her economic ambitions in this country. Under

1 cover of making this territory an integral part of  
2 the Co-prosperity Sphere, a methodical system of con-  
3 trol, absorption and economic and financial plunder  
4 was to be established and developed in an ever increas-  
5 ing manner.

6 This operation was to be effected in true  
7 Japanese fashion, under the cloak of bilateral con-  
8 tracts which would appear to give equal benefit to  
9 both parties. In reality, the result of these agree-  
10 ments was to confer the lion's share of rights to the  
11 aggressor.

12 The Pact of Establishment and Navigation  
13 of May 6th, 1941 followed by the Saigon-Mitani fin-  
14 ancial agreement of January 20th, 1943, which es-  
15 tablished a special yen currency, were the principal  
16 means by which the aggressor was to realize his aims.

17 We shall further explain how Japan virtually  
18 imposed payment for the costs of occupation under the  
19 qualifications of a loan. We shall also set forth  
20 under what conditions Japan forced Indo-China to de-  
21 liver certain raw materials, especially rubber, us-  
22 ing Germany as an instrument of pressure on the  
23 Vichy Government.

24 THE SITUATION IN FRENCH INDO-CHINA DURING THE LAST PHASE  
25 OF THE WAR IN THE PACIFIC.

1           Finally, in the early part of 1945 the  
2         Japanese forces were held in check on all fronts, -  
3         North Pacific, the Philippines and Burma. In French  
4         Indo-China, however, this period was marked by a  
5         whole series of incidents provoked by the excessive  
6         demands of the occupying power.

7           In order to consolidate her position and to  
8         prevent any revolt being attempted by the local re-  
9         sistance movements combined with the landing of al-  
10        lied forces, the Japanese government took fresh mil-  
11        itary measures in Indo-China. These measures were  
12        decided upon during a conference of the Supreme Coun-  
13        cil of War, February 1st, 1945.

14           On March 9th, 1945 the Japanese Ambassador  
15         handed an ultimatum to the Governor-General of Indo-  
16         China at Saigon, stipulating that the Japanese Army  
17         should have complete command of all the French Armed  
18         Forces in Indo-China and sole administration of all  
19         means of transport and communication. This ultimatum,  
20         which was remitted at 1900 hours, was to expire at  
21         2100 hours.

22           The rejection of this ultimatum brought  
23         about the immediate intervention of the Japanese army,  
24         which launched a surprise attack against our troops.  
25         At the same time, the various French authorities

1        were arrested and replaced by Japanese staffs which  
2        had been formed in advance.

3              During the days which followed, while  
4        French elements continued to resist, a series of  
5        measures taken by the Japanese abolished French sov-  
6        ereignty throughout the states which composed the  
7        Union of Indo-China. From this moment onwards, de-  
8        prived of the protection of their own authorities  
9        the French and native population were subjected to  
10       lawlessness and violence.

11             The French prisoners of war and the civil  
12        population were the victims of atrocities throughout  
13        the whole territory. The worst massacres took place  
14        notably at Lang-Son, Thakkek, and Ha Giang. These  
15        facts are mentioned merely as a reminder, they per-  
16        tain to Part 3 of the Indictment and are contained in  
17        a later part of this phase.

18             These events prove that the Japanese Gov-  
19        ernment paid no heed to the solemn warning which the  
20        Government of General De Gaulle addressed to them on  
21        April 11th, 1945. This warning held the Japanese  
22        governmental authorities and the High Command def-  
23        initely responsible for any attempt on human life and  
24        for any acts of violence against the security of the  
25        French and Indo-Chinese populations. It was also

1 declared that any individual held responsible for  
2 such acts and convicted of the same would be con-  
3 sidered and treated as a War Criminal.

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1 THE PRESIDENT: Mr. Smith.

2 MR. SMITH: Your Honor, I would like to call  
3 attention to a grave error on page 3 of the English  
4 copy. In the second sentence it refers to Foreign  
5 Minister HIROTA. That is an error. The French copy  
6 shows Foreign Minister ARITA; not only the English  
7 but the Japanese copy carries the name, "Foreign  
8 Minister HIROTA." We followed the English and the  
9 French translations and the translations carried the  
10 proper name "ARITA", so we would like to have the  
11 outstanding copies corrected, if the Court please.

12 THE PRESIDENT: In the French copy the name  
13 is given as HIRITA, H-I-R-I-T-A, corrected to ARITA,  
14 A-R-I-T-A. I suppose that is how the mistake occurred  
15 in the other copy. It should be ARITA in all copies.

16 Mr. Levin.

17 MR. LEVIN: Mr. President, the defense re-  
18 quests that it be noted for the purposes of the record  
19 that in a number of instances this opening statement  
20 is more than an opening statement. In other words,  
21 in some places, page three, the third paragraph; on  
22 page eight in the second paragraph; and in other  
23 portions of the address. We consider that it just  
24 does not constitute an opening statement and therefore  
25 ask that the record show our position with respect to it.

1                   MR. ONETO: I will read in English in the  
2 document. I will utilize and present them to the  
3 Court. Of course, some of them I will ask of the  
4 Court authorization --

5                   THE PRESIDENT: Mr. Oneto, I think you  
6 should have alongside you some person who will readily  
7 understand what is said by the defense and the Bench,  
8 and who will be able to explain to us what you say  
9 if we cannot understand you. On the French staff we  
10 know there are persons who speak excellent English.

11                  MR. ONETO: Your Honor, I wish to know if the  
12 Court will authorize me to give the explanations  
13 about the documents which I will present in English --  
14 in French -- or if you would prefer to have them in  
15 English.

16                  THE PRESIDENT: Try your English first. It  
17 may be quite satisfactory.

18                  MR. ONETO: The seizure and occupation of  
19 Hainan Island off the coast of Indo-China on the  
20 11 February 1939 was the first step in Japanese mili-  
21 tary aggression in the area south of China and in the  
22 South Sea. It was accomplished by a surprise attack  
23 by land, sea, and air.

24                  I now wish to introduce the prosecution's  
25 document No. 2577 bearing (unintelligible) signature.

1           THE PRESIDENT: Admitted on the usual terms.

2           CLERK OF THE COURT: Prosecution's document  
3         No. 2577 will receive exhibit No. 612.

4           (Whereupon, the above-mentioned document  
5         was marked prosecution's exhibit No. 612 and  
6         received in evidence.)

7           MR. ONETO: This document is an excerpt from  
8         "Important Decisions Regarding International and  
9         National Policies --- August and November 1938."

10          (Reading): "Despatched to the Foreign Min-  
11         istry, November 26th at 1 p. m.

12          Section 7."

13          I will read only the last part.

14          "The agenda introduced by the Navy Minister  
15         and agreed at Five Minister Conference on 25th November  
16         1938, upon the decision on the principle for adjusting  
17         new Sino-Japanese relationship" -- was -- the sentence  
18         is not finished. There is a word lacking.

19          "As for the Hainan Island, it will be captured  
20         by military action in case of necessity."

21          I wish now to introduce prosecution's document  
22         bearing document No. IPS 1529-E, an extract from Tokyo  
23         Gazette, Volume III, No. 10, April 1940, Page 396.

24          THE PRESIDENT: Mr. Levin.

25          MR. LEVIN: Mr. President, we would like to

1 object to the introduction of the document for the  
2 reason it does not appear that this is an official  
3 document of the Japanese Government.

4 THE PRESIDENT: The Tokyo Gazette has been  
5 treated as an admissible document hitherto in these  
6 proceedings. Objection overruled.

7 Just a minute. I wish somebody who under-  
8 stands English well would stand alongside him.

9 Mr. Tavenner, it is the express desire of  
10 the prosecution that we should hear these proceedings  
11 in French and also from the prosecutor, Mr. Oneto.  
12 We expect the prosecution to do all in their power  
13 to help us and would like you to stand alongside of  
14 Mr. Oneto and put him right where he goes wrong from  
15 time to time as he probably will.

16 Now I understand that he is tendering an  
17 extract from the Tokyo Gazette, Volume III, Number 10,  
18 April, 1940, Page 396, dealing with the occupation  
19 of Hainan Island. Admitted on the usual terms.

20 CLERK OF THE COURT: Prosecution's document  
21 No. 1529-E, to wit, a copy of the Tokyo Gazette, Volume  
22 III, Number 10, will receive exhibit No. 613 for  
23 identification only; and an excerpt therefrom bearing  
24 the same number will receive exhibit No. 613-A.

25 ("hereupon, the above-mentioned documents

1        were marked prosecution's exhibits Nos. 613  
2        and 613-A respectively, 613 being for identifi-  
3        cation only and 613-A being received in evidence.)

4            MR. ONETO: I read:

5            "February 10. Hainan Island, off the South  
6        China coast is surprised by the Japanese landing  
7        forces under Vice-Admiral Nobutake KONDO, Commander  
8        of the Imperial Naval Forces in South China. Kiung-  
9        chow and Haikow fall into the hands of the Japanese.

10          "February 13. The House of Representatives  
11        of the Imperial Diet consents" -- I apologize --

12          "The French Ambassador, Charles Arsene-Henry  
13        makes representations to the Japanese Government in  
14        connection with Japanese occupation of Hainan Island.

15          "February 14. British Ambassador Sir Robert  
16        Craigie makes representations to the Japanese Government  
17        in connection with Japanese occupation of Hainan  
18        Island.

19          "A Japanese naval force occupies Samah,  
20        Yulinkan and Ai-hsien in Hainan Island.

21          "February 17. American Ambassador Joseph  
22        C. Grew adopts steps similar to those taken by the  
23        French and British ambassadors regarding Japanese  
24        occupation of Hainan Island."

1 THE PRESIDENT: Captain Van Meter, send a  
2 page to the lectern, will you please?

3 ("Whereupon, the Marshal of the Court  
4 stationed himself at the lectern.)

DR. KIYOSE: Mr. President, I wish to point out that the excerpts just read are excerpts from ASAHI SHIMBUN. Another thing I would like to mention here is that excerpts from the document just read, namely No. 613, it is given to understand that there is an excerpt from the Tokyo Gazette of April 1940. By February 13, then, it would seem that the year thereof would also be 1940. However, there is an item appearing therein saying that it was on the occasion of the 1939 Budget. Therefore, I would request that the prosecution make this point clear.

If the Tribunal please, at the place where  
it says "February 13," the budget for the year 1939  
was passed. Therefore, I would like the prosecution  
to make this point clear, whether it was actually in  
the year 1939 or not.

THE PRESIDENT: Well, the same items could appear in the Gazette and in the newspaper. This purports to be an extract from the Gazette. What is the position, Mr. Oneto?

25 MR. ONETO: Mr. President, I think it was

1 the Tokyo Gazette and not the newspaper -- the Tokyo  
2 Gazette.

3 THE PRESIDENT: Well, we must accept your  
4 word for the time being. The defense can correct it  
5 when they give their defense.

6 MR. ONETO: (Unintelligible.)

7 THE MONITOR: Mr. President, the Japanese-French  
8 interpreter requests that Mr. Oneto speak in French  
9 as his English is not understandable to us and we cannot  
10 translate it; and the court reporter also finds it so  
11 difficult that he cannot repeat it to us either.

12 MR. ONETO (Continuing unintelligibly).

13 THE MONITOR: May I ask the official court  
14 reporter to repeat the passage, please.

15 OFFICIAL COURT REPORTER: I am sorry, I did  
16 not get it.

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1                   THE PRESIDENT: The prosecution had better  
2 reconsider its attitude in this matter. We have done  
3 our best to meet the position and you find what  
4 position we have reached. We feel we should not be  
5 called upon to waste time when we know that on the  
6 French staff there are men who speak English won-  
7 derfully well. We have done our best to meet the  
8 prosecution. The prosecution must do their best to  
9 meet the Bench. The difficulty is the Bench can fol-  
10 low Mr. Oneto with difficulty; the interpreters can-  
11 not follow him, and at least one of his statements  
12 has not yet been interpreted.

13                  MR. TAVENNER: If it please your Honor, will  
14 it be satisfactory if Mr. Oneto will speak in French  
15 and have it translated over the system and try that  
16 system?

17                  THE PRESIDENT: The defense must understand  
18 what he is saying so they can take objection. He  
19 must be able to meet the objections if the Bench re-  
20 quire his assistance, and the Bench may require his  
21 assistance. He should have beside him a person who  
22 understands French well and who speaks English well,  
23 and that person should be sworn, because the matter  
24 will not be one entirely between the French prose-  
25 cutor and his interpreter. These considerations may

1 lead to an entire change in the method of presenting  
2 the French case.

3 MR. TAVENNER: Would your Honor be willing  
4 to try the same plan that was used in the opening  
5 statement first before attempting the new plan that  
6 you have just suggested?

7 THE PRESIDENT: I should like to have the  
8 advantage of a discussion with my colleagues.

9 (Whereupon, the Members of the  
10 Tribunal conferred on the bench.)

11 THE PRESIDENT: This is a different problem  
12 than that raised this morning. This is a problem  
13 arising from the prosecutor's use of English, not  
14 French. We think that the French case should be  
15 handled by a prosecutor who speaks English well. The  
16 Japanese defense counsel, of course, speak in Japan-  
17 ese, but objections to them do not come from the  
18 defense. The French prosecutor, the person putting  
19 the French case, must be understood by defense  
20 counsel and be able to answer them and the Court  
21 readily.

22 MR. TAVENNER: In view of your Honor's  
23 statement, I believe if we had a few minutes recess  
24 we would be able to organize this work so that we  
25 can go ahead with a little more expedition.

1                   THE PRESIDENT: We will recess for fifteen  
2 minutes.

3                   (Whereupon, at 1420, a recess  
4 was taken until 1505, after which the proceedings  
5 were resumed as follows:)

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: If it please the Tribunal,  
5 during the recess I have made an investigation and  
6 find that there is every reason to believe that in the  
7 offering of documents in evidence, in consideration  
8 of objections that may be made to them and reply by  
9 the prosecution, there will be a simultaneous trans-  
10 lation, which should work with reasonable dispatch.  
11 What has occurred is this, that Mr. Oneto has prepared  
12 his remarks in French, expected them to be delivered  
13 in that manner, and the sudden switching over to Eng-  
14 lish has confused the introduction of the documents.

15 THE PRESIDENT: Well, he suggested himself  
16 that he might speak in English. I said, yes, try it,  
17 and the trial was not a success because the transla-  
18 tors could not understand his English.

19 MR. TAVENNER: I believe if he were permitted  
20 to proceed as he had planned that it will work satis-  
21 factorily.

22 THE PRESIDENT: Well, what is the position?  
23 I understand now that he has written out something in  
24 French relating to the introduction of his documents,  
25 and that will be interpreted concurrently into Japanese

1 and English.

2 MR. TAVENNER: Yes, sir.

3 THE PRESIDENT: So that to that extent we shall  
4 have French, English and Japanese at the same time.

5 Well, I am told now that is not the intention,  
6 that we will have French first and then English and  
7 Japanese at the same time after that. But if an  
8 objection is raised by the defense, what is to happen?

9 MR. TAVENNER: If it please the Tribunal,  
10 the reading of the documents will occur simultaneously.  
11 But the comment that is made in relation to the docu-  
12 ments will be first in French, and then in English and  
13 Japanese.

14 THE PRESIDENT: If he writes out what he is to  
15 say about the documents there is no reason why all  
16 three languages should not be given concurrently. It  
17 is only his extemporary statements that must be fol-  
18 lowed by English and Japanese; and the same applies  
19 to observations by the defense and by the bench.

20 Now, he has written out something to say  
21 independently of what appears in the documents. Will  
22 that be given concurrently in English and Japanese?

23 MR. TAVENNER: No, sir.

24 THE PRESIDENT: Why not?

25 MR. TAVENNER: I beg your pardon. It will be

1 given concurrently, not simultaneously with the French.

2 THE PRESIDENT: It is the same thing.

3 MR. TAVENNER: In other words, the Japanese  
4 and the English will be concurrent as to each other,  
5 but they will follow the French immediately upon the  
6 conclusion of the French.

7 THE PRESIDENT: Well, his written statements  
8 as to the nature of the documents will be **in no dif-**  
9 **ferent position from his extemporary statements.**

10 MR. TAVENNER: That is right, sir. There  
11 will be a pause for translation after each.

12 THE PRESIDENT: As regards his written state-  
13 ments, I cannot understand the need for the pause.  
14 However, I can only suggest that we try out what you  
15 have in mind, if my colleagues are willing that you  
16 should do so.

17 Mr. Levin.

18 MR. LEVIN: Mr. President, on behalf of the  
19 defense, we would like to enter an objection to the  
20 procedure which has been suggested by Mr. Tavenner.  
21 We believe the reasons for permitting this procedure  
22 far less valid than to permit, as the Court did after  
23 consideration, the reading of the opening statement in  
24 French.

25 THE PRESIDENT: You need not say any more.

1 The Court upholds the objection.

2 MR. TAVENNER: In that event, will the Court  
3 permit Mr. Oneto to make his comment regarding the  
4 documents he desires to introduce in the French  
5 language, and that the documents themselves be read  
6 in English?

7 THE PRESIDENT: The Court insists on the use  
8 of English throughout.

9 Are you in position to go ahead this afternoon?

10 MR. TAVENNER: If your Honor will permit me  
11 to consult with Mr. Oneto, I will advise you.

12 If your Honor please, Mr. Oneto would like to  
13 make reference to his position in regard to the matter.

14 THE PRESIDENT: The interpreters will not  
15 understand him, so it is useless for him to talk. We  
16 cannot overcome that difficulty, not this afternoon.

17 We will adjourn now until half past nine  
18 tomorrow morning.

19 (Whereupon, at 1520, an adjournment  
20 was taken until Tuesday, 1 October 1946, at  
21 0930.)

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